
Manitoba 

**Annual Report
1985 - 86**

The Public Trustee

Manitoba



The Attorney General

Winnipeg, Manitoba, CANADA
R3C 0V8

His Honour Dr. George Johnson
Lieutenant-Governor for the
Province of Manitoba

May it please your Honour:

It is my pleasure to present to your Honour the Annual Report of the Public Trustee for the fiscal year ending March 31st, 1986.

Yours sincerely,

A handwritten signature in cursive script, appearing to read "Roland Penner".

Roland Penner, Q.C.
Attorney General



Public Trustee

7th Floor
Woodsworth Building
405 Broadway
Winnipeg, Manitoba, CANADA
R3C 3L6

Reply to:
File #:
Telephone:

The Honourable The Attorney General
Government of Manitoba
Legislative Building
Winnipeg, Manitoba
R3C 0V8

Dear Mr. Attorney:

In terms of the provisions of Section 13.2 of The Public Trustee Act, I submit this Fourth Annual Report for the period ending March 31st, 1986.

The Report of the Provincial Auditor dated August 8th, 1986 is attached hereto as Appendix "A".

Yours truly,

A handwritten signature in dark ink, appearing to read "J. D. Raichura".

J. D. Raichura, Q.C.
Public Trustee

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General Observations

The year ending March 31st, 1986 witnessed growth in all areas of the statutory functions of the office of the Public Trustee.

The value of total assets under management over the previous year rose from \$71,222,983.00 to \$78,704,516.00, an increase of 10.5 per cent. Revenue was up from \$1,853,446.31 for the 1984/85 period to \$2,291,509.84, an increase of 23.64 per cent. The Common Fund continues to grow and stood at \$58,182,325.47, an increase of 17.91 per cent from the previous year. The increase in expenditure is mainly reflective of the general salary increases granted to the civil servants over the years, as shown in the attached profile.

During the year of the report, there was no increase in resources to handle the substantial workload increases which have been accumulating over the past 3 years. The situation has been, therefore, one of higher revenues and reduced services. Since the duties and responsibilities of the Public Trustee are statutorily prescribed, they must be performed at a consistent and legally acceptable level. Presently, resources have been stretched to the breaking point. Increasing workloads and responsibilities are causing considerable stress on staff. Some additional resources on term basis have been recently added, but further corrective action is needed in the short term. An operational audit of the office is to take place shortly. This will help better to determine the needs of this office in terms of additional personnel and also provide an opportunity to review the status of the office of the Public Trustee within the Government organization having regard to the nature of its operation.

New Automated System Status

In June 1985, Treasury Board authorized an expenditure of \$35,130.00 to contract consulting assistance for a Feasibility Study. The study was initiated August 1985 and concluded in December 1985 at a cost of \$29,600.00.

The Feasibility Report highlighted the risks associated with continuing processing on the N.C.R. 399, and the significant volume increases which have occurred since the N.C.R. equipment was acquired.

A new system was recommended for development and implementation on the Manitoba Data Service's mainframe computer. This recommendation was accepted by the project steering committee, and the planning of the next project phase (Requirement Definition) was initiated.

During 86/87 fiscal year, progress was delayed by a \$50,000.00 expenditure reduction and assignment of system staff to other internal priorities.

The Requirement Definition phase has now commenced with contracted consulting as authorized at a maximum cost of \$71,400.00.

Powers of Attorney

Although several deserving cases were referred to this office, due to the heavy demands on available resources, no powers of attorney were accepted.

Sterilization

Judgment in the "Eve" case was rendered by The Supreme Court of Canada on October 23rd, 1986.

It was hoped that in the rendering of this decision, the Court would, as *parens patriae*, designate itself as the appropriate party to give or refuse informed consent to non-therapeutic sterilization on behalf of persons lacking legal capacity. However, the Court, after indicating that its *parens patriae* jurisdiction was unlimited, held that such jurisdiction should never be exercised to authorize non-therapeutic sterilizations. This decision, which has been hailed as a victory by many groups, is seen as both narrow and rigid.

It is narrow, in that it fails to recognize that non-therapeutic sterilization could, in some cases, positively affect the social, economic, and psychological needs of an individual, the fulfillment of which are crucial to any person's quality of life.

It is rigid, in that it operates as an effective denial of "choice" to persons unable to give their own informed consent to non-therapeutic sterilization, for in this Province, there is no statutory authority to give such consent vested in committees. Furthermore, any legislative attempt to vest committees with statutory authority to give consent to non-therapeutic sterilizations, would conflict with the protection of fundamental human rights guaranteed by Sections 7 and 15 of The Canadian Charter of Rights and Freedoms. Therefore, the Court's disinclination to accept responsibility and exercise its jurisdiction in these matters, will have far reaching effects for the few Manitobans who are unable to give their own informed consent to a sterilization which could serve their best interests.

Mr. Justice La Forest, in rendering his decision in the "Eve" case said that:

"If sterilization of the mentally incompetent is to be adopted as desirable for general social purposes,

the legislature is the appropriate body to do so. It is in a position to inform itself and it is attuned to the feelings of the public in making policy in this sensitive area. The actions of the legislature will then, of course, be subject to the scrutiny of the courts under the *Canadian Charter of Rights and Freedoms* and otherwise."

Welcome Home Program

This worthy program was officially launched in October of 1984.

Under the program initiated by the Government, 180 wards of the Public Trustee have been discharged in the community up to and including March 19th, 1987. These discharges were from the Manitoba Developmental Centre and the Pelican Lake Training Centre.

Each discharge involves a planning session. Unfortunately, due to insufficient resources to handle this new development, the Public Trustee was unable to

participate in any of these plannings. Further, the files of these 180 individuals have now become active in the sense that the presence of these wards of the Public Trustee in the community will inevitably involve the office in their lives in a more significant way. With additional such discharges, there will be a further corresponding workload increase in the office. This is one example of the effect of the Government's new initiatives on the duties and responsibilities of the Public Trustee.

The Public Trustee of Manitoba

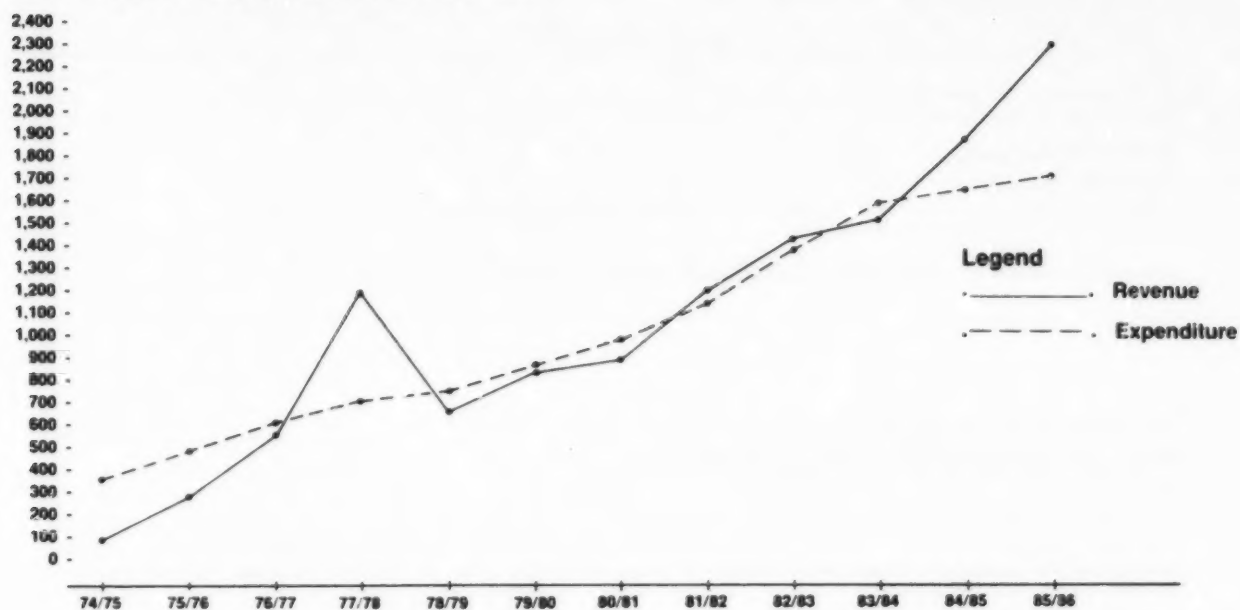
Dimensions

1985-1986

Number of Subordinate Staff	54
Revenue:	\$2,291,500.00
Expenditure:	1,691,300.00
Assets under Administration:	78,704,500.00
Number of Estate, Trust and Legal Files	6912

Department of Attorney General
Office of The Public Trustee

Revenue/Expenditure Profile



Year	Revenue	Expenditure	Revenue as % of Expenditure
1974/75	93.4	347.2	26.9 %
1975/76	258.2	480.8	53.7 %
1976/77	549.3	553.7	99.2 %
1977/78	1,191.5*	638.9	186.5 %
1978/79	653.7	709.8	92.1 %
1979/80	819.7	824.6	100.6 %
1980/81	885.8	973.2	90.8 %
1981/82	1,170.5	1,142.3	102.5 %
1982/83	1,364.2	1,336.0	102.1 %
1983/84	1,470.1	1,522.6	96.55%
1984/85	1,853.4	1,623.4	114.17%
1985/86	2,291.5	1,691.3	135.48%

*Includes non-recurring collection of Prior Years Fees totalling \$586.2

The Public Trustee of Manitoba
Trust Division Activity

As at March 31

	1983	1984	1985	1986
Dollars under Administration	\$16,165.2	\$19,709.7	\$20,971.7	\$24,056.0
Number of Accounts				
Deceased Estates:	752	759	739	747
Infant Trusts:	805	887	893	945
	1557	1646	1632	1692

The Public Trustee of Manitoba
Mental Health Division Activity

As at March 31

	1983	1984	1985	1986
Dollars under Administration	\$36,263.4	\$42,288.8	\$50,229.0	\$54,464.0
Number of Accounts with Assets:	3065	3083	3163	3206
Total Number of Accounts:	4916	4816	4784	4738

The Public Trustee of Manitoba
Legal Department Activity

As at March 31

	1983	1984	1985	1986
Number of files at beginning of year:	254	326	364	431
Number of files opened:	348	344	322	375
	602	670	686	806
Number of files closed:	276	306	255	324
Number of files at year end:	326	364	431	482



Manitoba

The Public Trustee of Manitoba

Report of the Provincial Auditor's Office

We have examined the financial statements, being Exhibits A and B, of The Public Trustee of Manitoba for the fiscal year ended March 31, 1986. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of affairs of the estates and trusts under jurisdiction of the Public Trustee as at March 31, 1986 and the cash receipts and disbursements for the year then ended in accordance with the accounting policies stated in note 2 to the financial statements applied on a basis consistent with that of the preceding year.

August 8, 1986,
Winnipeg, Manitoba.

F. H. Jackson, C.A.,
Provincial Auditor.

Exhibit A**Government of the Province of Manitoba
The Public Trustee of Manitoba****Balance Sheet of estates and trusts under administration**

as at March 31, 1986

(with 1985 figures for comparison)

Assets		
	1986	1985
Cash on hand and in bank:		
General	\$ 1,157,893	\$ 433,247
Accountable advance	2,661	1,983
	1,160,554	435,230
Expenditures recoverable from estates and trusts (Note 2 (a))	4,839	5,312
Common fund investments (Notes 2(b) and 7)	58,182,325	49,344,599
Term deposits, investment certificates and treasury bills, at par value	2,658,306	2,267,668
Government of Canada and other bonds, at par value	10,425,653	13,857,231
Shares of capital stock and mutual funds (Note 2(c))	2,341,064	1,818,683
Annuity contracts (Note 2 (d))	95,214	100,441
Accounts receivable (Note 2 (e))	103,339	73,302
Rentals receivable (Note 2(e))	952	2,053
Notes receivable, principal (Note 2(f))	176,242	110,784
Mortgages and agreements receivable (Note 2(f))	67,974	64,682
Interests in other estates (Note 2(g))	6,075	2,145
Real estate (Note 2(h))	3,481,979	3,140,853
	<u>\$78,704,516</u>	<u>\$71,222,983</u>
Liabilities		
Liabilities of estates:		
Mortgages, notes and agreements payable (Note 2(i))	\$ 163,435	\$ —
Public Trustee, fees payable (Note 3)	13,579	14,760
	177,014	14,760
Government of the Province of Manitoba:		
The Public Trustee accountable advance	7,500	7,500
Estates and trusts under administration: (Note 2)		
Excess of recorded value of assets over liabilities:		
The Mental Health Act	54,464,014	50,229,024
The Public Trustee Act	24,055,988	20,971,699
	<u>\$78,704,516</u>	<u>\$71,222,983</u>

Exhibit B

Government of the Province of Manitoba
The Public Trustee of Manitoba

Statement of Receipts and Disbursements

for the year ended March 31, 1986
(with 1985 figures for comparison)

	Receipts		Disbursements	
	1986	1985	1986	1985
Funds held by estates and trusts brought under administration				
Realization of equities in other estates	\$ 6,041,369	\$ 5,552,455	Accounts payable discharged	\$ 270,517
Pensions, compensation and assistance	863,093	706,121	Mortgages and agreements payable	94,559
Sickness, disability and other insurance benefits	9,337,978	8,354,158	Real estate purchases	7,479
				372,555
	1,368,079	853,955		177,876
Collections on account of:				
Accounts receivable	95,458	74,439	Maintenance:	
Rentals and leases receivable	216,027	312,072	Maintenance incurred in hospitals prior to June 30, 1958	139,368
Mortgages and agreements receivable	38,965	27,283	Board, room and other expenses (Note 5)	8,073,994
				8,213,362
	350,450	413,794		6,357,390
Sale of chattels	129,537	181,325	Preservation of estates:	
Sale of real estate	1,016,163	831,986	Reality and income taxes	921,026
Interest — bonds and investment certificates	8,216,717	7,071,851	Insurance	39,228
Dividends	108,453	64,029	Repairs	73,721
Bank interest	61,547	8,314	Sundry	583,882
Statutory fees collected (Note 4)	7,073	11,123		1,617,857
				1,268,512
	27,500,459	24,049,111	Support of dependents	67,999
Total receipts, before sale or redemption of securities	48,147,052	21,248,996	Administration and passing of accounts (Note 3)	2,278,834
Sale or redemption of securities			Burial expenses	520,499
Cash on hand and in bank at beginning of year	433,247	798,961	Estates and trusts released from administration	7,965,864
			Statutory fees remitted (Note 4)	7,073
				11,123
			Total disbursements, before purchase of securities	21,044,063
			Purchase of securities	53,878,802
			Cash on hand and in bank at end of year	1,157,893
				\$76,080,758
				\$46,097,068

Notes to Financial Statements

March 31, 1986

1. Role and Objective

The Public Trustee acts on behalf of persons affected by various disabilities, mental disorders, age and death. The Public Trustee is considered to be an appointment of last resort and therefore provides a public service, generally, where there is no competent or acceptable person available to provide the required service.

2. Significant Accounting Policies

Statement of Receipts and Disbursements

The Statement of Receipts and Disbursements reflects cash transactions which have occurred during the year for estates and trusts under administration.

Balance Sheet

The Balance Sheet reflects the position on a modified accrual basis with the following exceptions:

A. Assets

All known assets are included in the Balance Sheet except for chattels, which are accounted for in separate accounting records, and accruals on investment earnings.

B. Liabilities

Liabilities are only recorded on the Balance Sheet where accounts are due to the Government of the Province of Manitoba, and in respect of mortgages, notes and agreements payable described in Note 2(i).

The net recorded value of the estates and trusts under administration is governed by the valuation criteria described on the Balance Sheet as well as the following evaluation and accounting policies:

a) Expenditures Recoverable from Estates and Trusts

Expenditures recoverable from estates and trusts represent disbursements made on behalf of estates or trusts for which funds were not immediately available; these expenditures will be charged to the estates or trusts concerned in due course when funds become available. If funds do not become available, these expenditures are recovered from an appropriation of the Department of the Attorney-General, Province of Manitoba.

b) Common Fund Investments

Investments of the common fund, established pursuant to Section 7.1(1) of The Public Trustee Act, are restricted to securities and loans authorized under The Trustee Act. Common fund investments are recorded at cost, adjusted for the amortization of premiums or discounts on purchase on a straight-line basis over the remaining term to maturity of the security. Earnings are distributed semi-annually to the individual estates and trusts on a pro rata basis.

c) Shares of Capital Stock and Mutual Funds

(i) Mental Health and Infant Trusts

The basis of valuation of shares assumed under administration prior to December 22, 1971 is at Valuation Day prices (market value as at December 22, 1971), except shares for which no Valuation Day price exists. Shares are then recorded at cost, if available, or at a nominal value of \$1.00.

Shares assumed under administration since December 22, 1971 have been recorded at the market value as at the date of assumption or at a nominal value of \$1.00 where market value is not readily available.

All shares purchased by the Public Trustee are recorded at cost.

(ii) Estates of Deceased Persons

Shares forming part of estates of deceased persons assumed under administration have been recorded at the market value as at the date of death. Shares purchased by the Public Trustee are recorded at cost. Where no market value exists, nominal values of \$1.00 are used.

**Government of the Province of Manitoba
The Public Trustee of Manitoba**

Notes to Financial Statements

March 31, 1986

Shares recorded at Valuation Day prices (December 22, 1971), assumed under administration since December 22, 1971, and purchased by the Public Trustee, amount to \$2,340,963 (1985 — \$1,818,570), with the balance of the account representing share certificates of a nominal value of \$1.00 each.

d) Annuity Contracts

Determinable receivables amount to \$94,884 at March 31, 1986 (1985 — \$100,123), with the balance of the account represented by receivables recorded at a nominal value of \$1.00 each.

e) Accounts Receivable and Rentals Receivable

Determinable accounts receivable and rentals receivable amount to \$103,694 at March 31, 1986 (1985 — \$74,819), with the balance of the account represented by accounts and rentals receivable recorded at a nominal value of \$1.00 each.

f) Notes, Mortgages and Agreements Receivable

Notes, mortgages and agreements receivable reflect the amount of principal and interest due and unpaid at the time each estate was brought under administration, less any payments subsequently received. Interest due and accrued during administration is not recorded by the Public Trustee until such time as it is received.

g) Interests in Other Estates

Determinable interests in other estates amounts to \$6,018 at March 31, 1986 (1985 — \$2,092), with the balance of the account represented by interests in other estates recorded at a nominal value of \$1.00 each.

h) Real Estate

Real estate is valued at a multiple of five times the assessed value on the property tax notice and amounts to \$3,481,684 at March 31, 1986 (1985 — \$3,140,578); the balance of the account, represented by burial plots, mines and mineral rights and mobile homes, are recorded at a nominal value of \$1.00 each.

i) Mortgages, Notes and Agreements Payable

Mortgages, notes and agreements payable are recorded in instances where the possibility exists that payments may be made on account of these liabilities. Interest due and accrued during administration is not recorded until it is paid.

3. Administration Fees

Under Section 10 of The Public Trustee Act, the Public Trustee may determine reasonable charges based on the services provided to the estates and trusts under his administration. Charges are made annually on the aforementioned basis to each estate and trust on its anniversary date of enrollment with the Trustee, except those estates and trusts which do not have sufficient funds, where the charges are either reduced or not made.

The Government of the Province of Manitoba requested that the total costs of the Public Trustee's Office be fully recovered by means of these administration fees. These fees are remitted to the Government of the Province of Manitoba when funds become available in each estate and trust.

4. Statutory Fees

Under Section 84(3) of The Queen's Bench Act and Section 82 of The Surrogate Courts Act, the Public Trustee of Manitoba provides legal services for estates and trusts not under his administration. Fees for these services are recorded as receipts and remitted to the Government of the Province of Manitoba.

5. Board, Room and Other Expenses

Board, room and other expenses reflect payments made for current general living expenses, including clothing, comforts, medical, nursing home costs, etc., during periods of supervision, probation and hospitalization.

**Government of the Province of Manitoba
The Public Trustee of Manitoba**

Notes to Financial Statements

March 31, 1986

6. Administration Costs

Administration costs of the Public Trustee of Manitoba are paid out of appropriations of the Government of the Province of Manitoba and are not reflected in these financial statements. Where appropriate, these costs are recovered from estates and trusts in a manner as explained in Note 3.

7. Common Fund — Summary of Investments

The investments of the Common Fund consist of the following:

	1986	1986	1985
	Par Value	Book Value	
Term deposits and investment certificates	\$13,600,000	\$13,600,893	\$7,304,022
Government of Canada bonds	32,540,000	33,006,669	34,067,999
Province of Manitoba bonds	4,150,000	4,144,997	4,141,293
Province of Ontario bonds	1,900,000	1,896,027	1,894,129
Ontario Hydro-Electric bonds	4,600,000	4,836,889	542,419
B.C. Housing and Employment Development Financing Authority bonds	—	—	700,000
Federal Business Development Bank Euro-Canadian debentures	700,000	696,850	694,737
	\$57,490,000	\$58,182,325	\$49,344,599